



General Assembly

January Session, 2005

Amendment

LCO No. 7218

SB0114907218SD0

Offered by:

SEN. STILLMAN, 20th Dist.

REP. ROY, 119th Dist.

To: Subst. Senate Bill No. **1149**

File No. 352

Cal. No. 288

***"AN ACT CONCERNING MINOR REVISIONS TO ENVIRONMENTAL
PROTECTION PROVISIONS."***

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- 1 In line 48, strike the brackets around "such"
- 2 In line 48, strike "dam, dike, reservoir or"
- 3 In line 49, strike "similar"
- 4 In line 267, strike "and" and insert a comma in lieu thereof and after
- 5 "inclusive," insert "22a-207b"
- 6 After the last section, add the following and renumber sections and
- 7 internal references accordingly:
- 8 "Sec. 501. Subdivision (1) of section 22a-134 of the general statutes is
- 9 repealed and the following is substituted in lieu thereof (*Effective*
- 10 *October 1, 2005*):
- 11 (1) "Transfer of establishment" means any transaction or proceeding

12 through which an establishment undergoes a change in ownership, but
13 does not mean;

14 (A) [conveyance] Conveyance or extinguishment of an easement; [.]

15 (B) [conveyance] Conveyance of an establishment through a
16 foreclosure, as defined in subsection (b) of section 22a-452f or
17 foreclosure of a municipal tax lien; [.]

18 (C) [conveyance] Conveyance of a deed in lieu of foreclosure to a
19 lender, as defined in and that qualifies for the secured lender
20 exemption pursuant to subsection (b) of section 22a-452f; [.]

21 (D) [conveyance] Conveyance of a security interest, as defined in
22 subdivision (7) of subsection (b) of section 22a-452f; [.]

23 (E) [termination] Termination of a lease and conveyance,
24 assignment or execution of a lease for a period less than ninety-nine
25 years including conveyance, assignment or execution of a lease with
26 options or similar terms that will extend the period of the leasehold to
27 ninety-nine years, or from the commencement of the leasehold, ninety-
28 nine years, including conveyance, assignment or execution of a lease
29 with options or similar terms that will extend the period of the
30 leasehold to ninety-nine years, or from the commencement of the
31 leasehold; [.]

32 (F) [any] Any change in ownership approved by the Probate Court;
33 [.]

34 (G) [devolution] Devolution of title to a surviving joint tenant, or to
35 a trustee, executor or administrator under the terms of a testamentary
36 trust or will, or by intestate succession; [.]

37 (H) [corporate] Corporate reorganization not substantially affecting
38 the ownership of the establishment; [.]

39 (I) [the] The issuance of stock or other securities of an entity which
40 owns or operates an establishment; [.]

41 (J) [the] The transfer of stock, securities or other ownership interests
42 representing less than forty per cent of the ownership of the entity that
43 owns or operates the establishment; [.]

44 (K) [any] Any conveyance of an interest in an establishment where
45 the transferor is the sibling, spouse, child, parent, grandparent, child of
46 a sibling or sibling of a parent of the transferee; [.]

47 (L) [conveyance] Conveyance of an interest in an establishment to a
48 trustee of an inter vivos trust created by the transferor solely for the
49 benefit of one or more sibling, spouse, child, parent, grandchild, child
50 of a sibling or sibling of a parent of the transferor; [.]

51 (M) [any] Any conveyance of a portion of a parcel upon which
52 portion no establishment is or has been located and upon which there
53 has not occurred a discharge, spillage, uncontrolled loss, seepage or
54 filtration of hazardous waste, provided either the area of such portion
55 is not greater than fifty per cent of the area of such parcel or written
56 notice of such proposed conveyance and an environmental condition
57 assessment form for such parcel is provided to the commissioner sixty
58 days prior to such conveyance; [.]

59 (N) [conveyance] Conveyance of a service station, as defined in
60 subdivision (5) of this section; [.]

61 (O) [any] Any conveyance of an establishment which, prior to July
62 1, 1997, had been developed solely for residential use and such use has
63 not changed; [.]

64 (P) [any] Any conveyance of an establishment to any entity created
65 or operating under chapter 130 or 132, or to an urban rehabilitation
66 agency, as defined in section 8-292, or to a municipality under section
67 32-224, or to the Connecticut Development Authority or any
68 subsidiary of the authority; [.]

69 (Q) [any] Any conveyance of a parcel in connection with the
70 acquisition of properties to effectuate the development of the overall

71 project, as defined in section 32-651; [.]

72 (R) [the] The conversion of a general or limited partnership to a
73 limited liability company under section 34-199; [.]

74 (S) [the] The transfer of general partnership property held in the
75 names of all of its general partners to a general partnership which
76 includes as general partners immediately after the transfer all of the
77 same persons as were general partners immediately prior to the
78 transfer; [.]

79 (T) [the] The transfer of general partnership property held in the
80 names of all of its general partners to a limited liability company
81 which includes as members immediately after the transfer all of the
82 same persons as were general partners immediately prior to the
83 transfer; [or]

84 (U) [acquisition] Acquisition of an establishment by any
85 governmental or quasi-governmental condemning authority;

86 (V) Conveyance of any real property or business operation that
87 would qualify as an establishment solely as a result of (i) the
88 generation of more than one hundred kilograms of universal waste in
89 a calendar month, (ii) the storage, handling or transportation of
90 universal waste generated at a different location, or (iii) activities
91 undertaken at a universal waste transfer facility, provided any such
92 real property or business operation does not otherwise qualify as an
93 establishment, that there has been no discharge, spillage, uncontrolled
94 loss, seepage or filtration of a universal waste or a constituent of
95 universal waste that is a hazardous substance at or from such real
96 property or business operation and that universal waste is not also
97 recycled, treated, except for treatment of a universal waste pursuant to
98 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or
99 disposed of at such real property or business operation; or

100 (W) Conveyance of a unit in a residential common interest
101 community in accordance with section 502 of this act.

102 Sec. 502. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding the
103 provisions of chapter 445 of the general statutes, a conveyance of a unit
104 in a residential common interest community shall not be subject to the
105 requirements of sections 22a-134 to 22a-133e, inclusive, of the general
106 statutes, as amended by this act, provided the declarant for the
107 residential common interest community of which the unit is a part is a
108 certifying party, as defined in section 22a-134 of the general statutes, as
109 amended by this act, for purposes of remediation of any establishment,
110 as defined in section 22a-134 of the general statutes, as amended by
111 this act, within such community and provides to the Commissioner of
112 Environmental Protection a surety bond or other form of financial
113 assurance acceptable to the commissioner.

114 (b) The surety bond or other form of financial assurance required
115 pursuant to subsection (a) of this section shall (1) identify both the
116 Department of Environmental Protection and the unit owners
117 association for the common interest community as beneficiaries, and
118 (2) be in an amount and in a form approved by the commissioner that
119 is, at all times when the real property comprising the common interest
120 community is an establishment, equal to the cost of remediation of the
121 contaminants on the subject property. In calculating such remediation
122 costs, the amount of the bond or other form of financial assurance may
123 be reduced from time to time as work covered by the bond is
124 completed, may exclude the costs of any improvements to the real
125 estate not required to remediate the contamination, and may exclude
126 the costs of remediation work already completed or on parcels of real
127 estate that may be added to the common interest community by the
128 exercise of development rights pursuant to section 47-229 of the
129 general statutes.

130 (c) Each time a seller conveys to a purchaser a unit in common
131 interest community that is an establishment, the seller shall provide a
132 notice to the purchaser that summarizes (1) the status of the
133 environmental condition of the common interest community, (2) any
134 investigation or remediation activities, and (3) any environmental land
135 use restrictions. Such notice requirement applies to all such

136 conveyances, including those conveyances otherwise excepted from
137 the requirement for delivery of a public offering statement or of a
138 resale certificate under subsection (b) of section 47-262 and section 47-
139 270 of the general statutes.

140 Sec. 503. Subdivisions (10) and (11) of section 22a-134 of the general
141 statutes are repealed and the following is substituted in lieu thereof
142 (*Effective October 1, 2005*):

143 (10) "Form I" means a written certification by the transferor of an
144 establishment on a form prescribed and provided by the commissioner
145 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration
146 of hazardous waste or a hazardous substance has occurred at the
147 establishment which certification is based on an investigation of the
148 parcel in accordance with prevailing standards and guidelines, or (B)
149 no discharge spillage, uncontrolled loss, seepage or filtration of
150 hazardous waste has occurred at the establishment based upon an
151 investigation of the parcel in accordance with the prevailing standards
152 and guidelines and the commissioner has determined, in writing, or a
153 licensed environmental professional has verified, in writing, that any
154 discharge, spillage, uncontrolled loss, seepage or filtration of a
155 hazardous substance has been remediated in accordance with the
156 remediation standards and that since any such written approval or
157 verification, including any approval or verification for a portion of an
158 establishment, no discharge, spillage, uncontrolled loss, seepage or
159 filtration of hazardous waste or hazardous substances has occurred at
160 any portion of the establishment;

161 (11) "Form II" means a written certification by the transferor of an
162 establishment on a form prescribed and provided by the commissioner
163 that the parcel has been investigated in accordance with prevailing
164 standards and guidelines and that (A) any pollution caused by a
165 discharge, spillage, uncontrolled loss, seepage or filtration of
166 hazardous waste or a hazardous substance which has occurred from
167 the establishment has been remediated in accordance with the
168 remediation standards and that the remediation has been approved in

169 writing by the commissioner or has been verified pursuant to section
170 22a-133x or section 22a-134a in writing attached to such form by a
171 licensed environmental professional to have been performed in
172 accordance with the remediation standards and that since any such
173 written approval or verification, including any approval or verification
174 for a portion of an establishment, no discharge, spillage, uncontrolled
175 loss, seepage or filtration of hazardous waste or hazardous substances
176 has occurred at any portion of the establishment, (B) the commissioner
177 has determined in writing or a licensed environmental professional has
178 verified pursuant to section 22a-133x or section 22a-134a, as amended
179 by this act, in writing, attached to the form that no remediation is
180 necessary to achieve compliance with the remediation standards, or
181 (C) a Form IV verification was previously submitted to the
182 commissioner and, since the date of the submission of the Form IV, no
183 discharge, spillage, uncontrolled loss, seepage or filtration of
184 hazardous waste or a hazardous substance has occurred at the
185 establishment, which certification is based on an investigation of the
186 parcel in accordance with prevailing standards and guidelines.

187 Sec. 504. Section 22a-134 of the general statutes is amended by
188 adding subdivisions (26) and (27) as follows (*Effective October 1, 2005*):

189 (NEW) (26) "Universal waste" means batteries, pesticides,
190 thermostats, lamps and used electronics regulated as a universal waste
191 under regulations adopted pursuant to subsection (c) of section 22a-
192 449. "Universal waste" does not mean (A) batteries, pesticides,
193 thermostats and lamps that are not covered under 40 CFR Part 273, or
194 (B) used electronics that are not regulated as a universal waste under
195 regulations adopted pursuant to subsection (c) of section 22a-449.

196 (NEW) (27) "Universal waste transfer facility" means any facility
197 related to transportation, including loading docks, parking areas,
198 storage areas and other similar areas where shipments of universal
199 waste are held during the normal course of transportation for ten days
200 or less.

201 Sec. 505. Subsections (g) and (h) of section 22a-134a of the general
202 statutes are repealed and the following is substituted in lieu thereof
203 (*Effective October 1, 2005*):

204 (g) (1) If the commissioner notifies the certifying party to a Form III
205 or Form IV that a licensed environmental professional may verify the
206 remediation, such certifying party shall, on or before thirty days of the
207 receipt of such notice or such later date as may be approved in writing
208 by the commissioner, submit a schedule for [investigating and
209 remediating the establishment] the investigation of the parcel and
210 remediation of the establishment. Such schedule shall, unless a later
211 date is specified in writing by the commissioner, provide that the
212 investigation shall be completed within two years of the date of receipt
213 of such notice and that remediation shall be initiated within three years
214 of the date of receipt of such notice. The schedule shall also include a
215 schedule for providing public notice of the remediation prior to the
216 initiation of such remediation in accordance with subsection (i) of this
217 section. The commissioner shall notify such certifying party if the
218 commissioner determines that the commissioner's review and written
219 approval is necessary. Such certifying party shall investigate the parcel
220 and remediate the establishment in accordance with the proposed
221 schedule or the schedule specified by the commissioner. [Such
222 certifying party shall submit to the commissioner an independent
223 verification by a licensed environmental professional that the
224 establishment has been remediated in accordance with the remediation
225 standards, and as applicable, a Form IV verification.] When
226 remediation of the entire establishment is complete, the certifying
227 party shall submit to the commissioner a final verification by a licensed
228 environmental professional. Any such final verification may include
229 and rely upon a verification for a portion of the establishment
230 submitted pursuant to subdivision (2) of this subsection.

231 (2) If a certifying party completes the remediation for a portion of an
232 establishment, such party may submit a verification by a licensed
233 environmental professional for any such portion of an establishment.
234 The certifying party shall be deemed to have satisfied the requirements

235 of this subsection for that portion of the establishment covered by any
236 such verification, but shall be responsible for investigation and
237 remediation of the remainder of the establishment not covered by such
238 verification. If any portion of an establishment for which a verification
239 is submitted pursuant to this subdivision is transferred, conveyed or
240 undergoes a change in ownership before remediation of the entire
241 establishment is complete, the certifying party shall provide notice to
242 the commissioner of such transfer, conveyance or change in
243 ownership. Such notice shall be provided to the commissioner within
244 thirty days of any such transfer, conveyance or change in ownership.
245 Such transfer, conveyance, or change in ownership shall not otherwise
246 be subject to the requirements of sections 22a-134 to 22a-134e,
247 inclusive, as amended by this act.

248 (h) (1) If the commissioner notifies the certifying party to a Form III
249 or Form IV that the commissioner's review and written approval of the
250 investigation of the parcel and remediation of the establishment is
251 required, such certifying party shall, on or before thirty days of the
252 receipt of such notice or such later date as may be approved in writing
253 by the commissioner, submit for the commissioner's review and
254 written approval a proposed schedule for: [(1)] (A) Investigating the
255 parcel and remediating the establishment; [(2)] (B) submitting to the
256 commissioner scopes of work, technical plans, technical reports and
257 progress reports related to such investigation and remediation; and
258 [(3)] (C) providing public notice of the remediation prior to the
259 initiation of such remediation in accordance with subsection (i) of this
260 section. Upon the commissioner's approval of such schedule, such
261 certifying party shall, in accordance with the approved schedule,
262 submit scopes of work, technical plans, technical reports and progress
263 reports to the commissioner for the commissioner's review and written
264 approval. Such certifying party shall perform all actions identified in
265 the approved scopes of work, technical plans, technical reports and
266 progress reports in accordance with the approved schedule. The
267 commissioner may approve in writing any modification proposed in
268 writing by such certifying party to such schedule or investigation and

269 remediation. The commissioner may, at any time, notify such
270 certifying party in writing that the commissioner's review and written
271 approval is not required and that a licensed environmental
272 professional may verify that the remediation has been performed in
273 accordance with the remediation standards.

274 (2) A certifying party may complete the remediation of a portion of
275 an establishment and request that the commissioner determine that the
276 requirements of this subsection have been satisfied for any such
277 portion of the establishment. If the commissioner determines that any
278 such remediation is complete, the certifying party shall be deemed to
279 have satisfied the requirements of this subsection for any such portion
280 of an establishment. Any determination by the commissioner that
281 remediation at the entire establishment has been completed may
282 include and rely upon any determination made pursuant to this
283 subdivision that remediation is complete at a portion of an
284 establishment. If any portion of an establishment for which the
285 commissioner determines that remediation is complete pursuant to
286 this subdivision is transferred, conveyed or undergoes a change in
287 ownership before remediation of the entire establishment is complete,
288 the certifying party shall provide notice to the commissioner of such
289 transfer, conveyance or change in ownership. Such notice shall be
290 provided to the commissioner within thirty days of any such transfer,
291 conveyance or change in ownership. Such transfer, conveyance, or
292 change in ownership shall not otherwise be subject to the requirements
293 of sections 22a-134 to 22a-134e, inclusive, as amended by this act.

294 Sec. 506. Subsections (e) and (f) of section 22a-133v of the general
295 statutes are repealed and the following is substituted in lieu thereof
296 (*Effective October 1, 2005*):

297 (e) The board shall authorize the commissioner to issue a license
298 under subsection (d) of section 22a-133m, sections 22a-184 to 22a-184e,
299 inclusive, this section and section 22a-133w to any person who
300 demonstrates to the satisfaction of the board that such person: (1) (A)
301 Has for a minimum of eight years engaged in the investigation and

302 remediation of releases of hazardous waste or petroleum products into
303 soil or groundwater, including a minimum of four years in responsible
304 charge of investigation and remediation of the release of hazardous
305 waste or petroleum products into soil or groundwater, and holds a
306 bachelor's or advanced degree from an accredited college or university
307 in a related science or related engineering field or is a professional
308 engineer licensed in accordance with chapter 391, or (B) has for a
309 minimum of fourteen years engaged in the investigation and
310 remediation of releases of hazardous waste or petroleum products into
311 soil or groundwater, including a minimum of seven years in
312 responsible charge of investigation and remediation of hazardous
313 waste or petroleum products into soil or groundwater; (2) has
314 successfully passed a written examination, or a written and oral
315 examination, prescribed by the board and approved by the
316 commissioner, which shall test the applicant's knowledge of the
317 physical and environmental sciences applicable to an investigation of a
318 polluted site and remediation conducted in accordance with
319 regulations adopted by the commissioner under section 22a-133k and
320 any other applicable guidelines or regulations as may be adopted by
321 the commissioner; and (3) has paid an examination fee of one hundred
322 eighty-eight dollars to the commissioner. In considering whether a
323 degree held by an applicant for such license qualifies for the
324 educational requirements under this section, the board may consider
325 all undergraduate, graduate, postgraduate and other courses
326 completed by the applicant.

327 (f) The board shall authorize the commissioner to issue a license to
328 any applicant who, in the opinion of the board, has satisfactorily met
329 the requirements of this section. The issuance of a license by the
330 commissioner shall be evidence that the person named therein is
331 entitled to all the rights and privileges of a licensed environmental
332 professional while such license remains unrevoked or unexpired. A
333 licensed environmental professional shall pay to the commissioner an
334 annual fee of three hundred thirty-eight dollars, due and payable on
335 July first of every year beginning with July first of the calendar year

336 immediately following the year of license issuance. The commissioner,
337 with the advice and assistance of the board, may adopt regulations in
338 accordance with the provisions of chapter 54, pertaining to the design
339 and use of seals by licensees under this section and governing the
340 license issuance and renewal process, including, but not limited to,
341 procedures for allowing the renewal of licenses when an application is
342 submitted not later than six months after the expiration of the license
343 without the applicant having to take the examination required under
344 subsection (e) of this section.

345 Sec. 507. Subdivisions (1) to (4), inclusive, of section 22a-255h of the
346 general statutes are repealed and the following is substituted in lieu
347 thereof (*Effective October 1, 2005*):

348 As used in sections 22a-255g to 22a-255m, inclusive:

349 (1) "Package" means any container, produced either domestically or
350 in a foreign country, used for the marketing, protecting or handling of
351 a product and includes a unit package, an intermediate package and a
352 shipping container, as defined in the American Society of Testing and
353 Materials specification D966. "Package" also means any unsealed
354 receptacle such as a carrying case, crate, cup, pail, rigid foil or other
355 tray, wrapper or wrapping film, bag or tub. [but shall not include any
356 glass, ceramic or metal receptacle which is intended to be reusable or
357 refillable.]

358 (2) "Distributor" means any person who takes title or delivery from
359 the manufacturer of a package, packaging component or product,
360 produced either domestically or in a foreign country, to use for
361 promotional purposes or to sell.

362 (3) "Packaging component" means any part of a package, produced
363 either domestically or in a foreign country, including, but not limited
364 to, any interior or exterior blocking, bracing, cushioning,
365 weatherproofing, exterior strapping, coating, closure, ink, label, dye,
366 pigment, adhesive, stabilizer or other additive. Tin-plated steel that
367 meets specification A623 of the American Society of Testing and

368 Materials shall be considered as a single packaging component.
369 [Electrolytic galvanized steel that meets specification A879 of the
370 American Society of Testing and Materials and hot-dipped coated
371 galvanized steel that meets specification A525 of the American Society
372 of Testing and Materials shall be treated in the same manner as tin-
373 plated steel] Electro-galvanized coated steel and hot dipped coated
374 galvanized steel that meets the American Society of Testing and
375 Materials specifications A653, A924, A879 and A591 shall be treated in
376 the same manner as tin-plated steel.

377 (4) "Commissioner" means the Commissioner of Environmental
378 Protection or an authorized agent or designee of the commissioner.

379 Sec. 508. Subdivisions (12) to (14), inclusive, of section 22a-255h of
380 the general statutes are repealed and the following is substituted in
381 lieu thereof (*Effective October 1, 2005*):

382 (12) "Manufacturer" means any person [, firm, association,
383 partnership or corporation] producing a package or packaging
384 component as defined in subdivision (3) of this section, as amended by
385 this act.

386 (13) "Manufacturing" means the physical or chemical modification
387 of a material to produce packaging or packaging components.

388 (14) "Supplier" means any person, firm, association, partnership or
389 corporation which sells, offers for sale or offers for promotional
390 purposes packages or packaging components which will be used by
391 any other person [, firm, association, partnership or corporation] to
392 package a product.

393 Sec. 509. Subsection (a) of section 22a-255i of the general statutes is
394 repealed and the following is substituted in lieu thereof (*Effective*
395 *October 1, 2005*):

396 (a) As soon as feasible, but not later than October 1, 1992, no
397 package or packaging component shall be offered for sale or

398 promotional purposes in this state, by its manufacturer or distributor,
399 if it is composed of any lead, cadmium, mercury or hexavalent
400 chromium which has been intentionally introduced during
401 manufacturing or distribution, as opposed to the incidental presence of
402 any of these substances.

403 Sec. 510. Section 22a-255j of the general statutes is repealed and the
404 following is substituted in lieu thereof (*Effective October 1, 2005*):

405 All packages and packaging components shall be subject to sections
406 22a-255g to 22a-255m, inclusive, as amended by this act, except the
407 following:

408 (1) A package or packaging component which was manufactured
409 prior to October 1, 1990, and displays a code indicating the date it was
410 manufactured;

411 (2) A package or packaging component that would not exceed any
412 maximum concentration set forth in subsection (c) of section 22a-255i
413 but for the addition or use of recycled materials; provided the
414 provisions of sections 22a-255g to 22a-255m, inclusive, as amended by
415 this act, shall apply to such packages on and after January 1, [2000]
416 2010;

417 (3) A package or packaging component to which lead, cadmium,
418 mercury or hexavalent chromium have been added in the
419 manufacturing or distribution process in order to comply with health
420 or safety requirements of federal law, provided the manufacturer of
421 such a package or packaging component has demonstrated to the
422 commissioner that such package or packaging component is entitled to
423 an exemption under this subdivision and the commissioner grants
424 such exemption. The exemption shall be effective for up to two years
425 and may be extended if circumstances warrant an extension. An
426 extension may be granted for up to two years;

427 (4) Any alcoholic liquor bottled prior to October 1, 1992;

428 (5) A package or packaging component to which lead, cadmium,
429 mercury or hexavalent chromium have been added in the
430 manufacturing, forming, printing or distribution process for which
431 there is no feasible alternative to the use of lead, cadmium, mercury or
432 hexavalent chromium provided the manufacturer of such a package or
433 packaging component has demonstrated to the commissioner that such
434 package or packaging component is entitled to an exemption under
435 this subdivision and the commissioner grants such exemption. The
436 exemption shall be effective for two years and may be extended if
437 circumstances warrant an extension. An extension may be granted for
438 up to two years. For purposes of this subdivision, a use for which there
439 is no feasible alternative is one which is essential to the protection, safe
440 handling or function of the package's contents and for which [there is
441 no substitute] technical constraints preclude the substitution of other
442 materials. For purposes of this subdivision, a use for which there is no
443 feasible alternative shall not include the use of any lead, cadmium,
444 mercury or hexavalent chromium for the purpose of marketing;

445 (6) A package or packaging component that is reused but exceeds
446 contaminant levels set forth in subsection (c) of section 22a-255i,
447 provided (A) the product being conveyed by such package or
448 packaging component is regulated under federal or state health or
449 safety requirements; (B) the transportation of such package or
450 packaging component is regulated under federal or state
451 transportation requirements; (C) the disposal of the package or
452 packaging component is performed according to federal or state
453 radioactive or hazardous waste disposal requirements; and (D) the
454 manufacturer of such package or packaging component has
455 demonstrated to the commissioner that such package or packaging
456 component is entitled to an exemption under this subdivision and the
457 commissioner grants such exemption. Any exemption granted under
458 this subdivision shall expire on January 1, [2000] 2010;

459 (7) A package or packaging component which is reusable and has a
460 controlled distribution and reuse but which exceeds the contaminant
461 levels set forth in subsection (c) of section 22a-255i, provided the

462 manufacturer or distributor of such package or packaging component
463 petitions the commissioner for an exemption and the commissioner
464 grants such exemption. A manufacturer or distributor petitioning the
465 commissioner for such an exemption shall (A) satisfactorily
466 demonstrate that the environmental benefit of the reusable packaging
467 or packaging component is significantly greater as compared to the
468 same package or packaging component manufactured in compliance
469 with the contaminant levels set forth in subsection (c) of section 22a-
470 255i, and (B) submit a written plan including, at a minimum, the
471 following elements: (i) A means of identifying in a permanent and
472 visible manner those reusable packages or packaging components
473 containing regulated metals for which the exemption is sought; (ii) a
474 method of regulatory and financial accountability such that a specified
475 percentage of such reusable packaging or packaging components
476 manufactured and distributed to other persons are not discarded by
477 those persons after use, but are returned to the manufacturer or his
478 designee; (iii) a system of inventory and record maintenance to
479 account for the reusable packaging or packaging components placed in
480 and removed from service; (iv) a means of transforming returned
481 packaging or packaging components that are no longer reusable into
482 recycled materials for manufacturing or into manufacturing wastes
483 which are subject to existing federal or state laws or regulations to
484 ensure that these wastes do not enter the commercial or municipal
485 waste stream; and (v) a system for annually reporting to the
486 commissioner any changes to the system or changes regarding the
487 manufacturer's designee. Any exemption granted under this
488 subdivision shall expire on January 1, [2000] 2010;

489 (8) A glass or ceramic package or packaging component that has a
490 vitrified label which, when prepared according to the American
491 Society for Testing and Materials specification C1606-04 and when
492 tested in accordance with the Toxicity Characteristic Leaching
493 Procedures of the United States Environmental Protection Agency Test
494 Method and Publication SW 846, third edition, "Test Methods for
495 Evaluating Solid Waste", does not exceed one part per million for

496 cadmium, five parts per million for hexavalent chromium and five
497 parts per million for lead.

498 Sec. 511. Subsection (a) of section 22a-255m of the general statutes is
499 repealed and the following is substituted in lieu thereof (*Effective*
500 *October 1, 2005*):

501 (a) The [department] commissioner may, in consultation with the
502 [Source Reduction Council of the Council of Northeastern Governors]
503 other member states of the Toxics in Packaging Clearing House,
504 review the effectiveness of sections 22a-255g to 22a-255m, inclusive, as
505 amended by this act, and provide a report based on such review to the
506 Governor and the General Assembly. The report may describe
507 substitutes which manufacturers and distributors of packages and
508 packaging components have used in place of lead, mercury, cadmium
509 and hexavalent chromium, and may contain recommendations
510 concerning (1) other toxic substances contained in packaging that
511 should be added to those regulated under the provisions of sections
512 22a-255g to 22a-255m, inclusive, as amended by this act, in order to
513 further reduce the toxicity of packaging waste, and (2) the advisability
514 of retaining the exemption provided in subdivision (2) of section 22a-
515 255j, as amended by this act.

516 Sec. 512. Subsection (b) of section 22a-449 of the general statutes is
517 repealed and the following is substituted in lieu thereof (*Effective*
518 *October 1, 2005*):

519 (b) The commissioner may: (1) License terminals in the state for the
520 loading or unloading of oil or petroleum or chemical liquids or solid,
521 liquid or gaseous products or hazardous wastes and shall adopt, in
522 accordance with chapter 54, reasonable regulations in connection
523 therewith for the purposes of identifying terminals subject to licensure
524 and protecting the public health and safety and for preventing the
525 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
526 petroleum or chemical liquids or solid, liquid or gaseous products or
527 hazardous wastes. Each license issued under this section shall be valid

528 for a period of not more than [three years commencing July first] ten
529 years from the date of issuance, unless sooner revoked by the
530 commissioner, and there shall be charged for each such license or
531 renewal thereof fees established by regulation sufficient to cover the
532 reasonable cost to the state of inspecting and licensing such terminals;
533 (2) provide by regulations for the establishment and maintenance in
534 operating condition and position of suitable equipment to contain as
535 far as possible the discharge, spillage, uncontrolled loss, seepage or
536 filtration of any oil or petroleum or chemical liquids or solid, liquid or
537 gaseous products or hazardous wastes; (3) inspect periodically all
538 hoses, gaskets, tanks, pipelines and other equipment used in
539 connection with the transfer, transportation or storage of oil or
540 petroleum or chemical liquids or solid, liquid or gaseous products or
541 hazardous wastes to make certain that they are in good operating
542 condition, and order the renewal of any such equipment found unfit
543 for further use. No person shall commence operation of any such
544 terminal in this state on or after July 1, 1993, without a license issued
545 by the commissioner. Any person who operates any such terminal
546 without a license issued by the commissioner shall be fined not more
547 than five thousand dollars per day during any period of unlicensed
548 operation.

549 Sec. 513. Section 22a-611 of the general statutes is repealed and the
550 following is substituted in lieu thereof (*Effective October 1, 2005*):

551 The owner or operator of a facility required to complete a toxic
552 release form under Section 313 of the Emergency Planning and
553 Community Right-to-Know Act of 1986 shall annually submit such
554 form to the commission on or before the first of July [1, 1990, and
555 annually thereafter] or a date established by the United States
556 Environmental Protection Agency, whichever comes later.

557 Sec. 514. Subsections (a) to (d), inclusive, of section 22a-208a of the
558 general statutes are repealed and the following is substituted in lieu
559 thereof (*Effective October 1, 2005*):

(a) The Commissioner of Environmental Protection may issue, deny, modify, renew, suspend, revoke or transfer a permit, under such conditions as he may prescribe and upon submission of such information as he may require, for the construction, alteration and operation of solid waste facilities, in accordance with the provisions of this chapter and regulations adopted pursuant to this chapter. Notwithstanding the provisions of this section, the commissioner shall not issue (1) a permit for a solid waste land disposal facility on former railroad property until July 1, 1989, unless the commissioner makes a written determination that such facility is necessary to meet the solid waste disposal needs of the state and will not result in a substantial excess capacity of solid waste land disposal areas or disrupt the orderly transportation of or disposal of solid waste in the area affected by the facility, or (2) an operational permit for a resources recovery facility unless the applicant has submitted a plan pursuant to section 22a-208g for the disposal or recycling of ash residue expected to be generated at the facility in the first five years of operation. In making a decision to grant or deny a permit to construct a solid waste land disposal facility, including a vertical or horizontal landfill expansion, the commissioner shall consider the character of the neighborhood in which such facility is located and may impose requirements for hours and routes of truck traffic, security and fencing and for measures to prevent the blowing of dust and debris and to minimize insects, rodents and odors. In making a decision to grant or deny a permit to construct or operate a new transfer station, the commissioner shall consider whether such transfer station will result in disproportionately high adverse human health or environmental effects. [The commissioner shall not authorize under a general permit or issue an individual permit under this section to establish or construct a new volume reduction plant or transfer station located, or proposed to be located, within one-quarter mile of a child day care center, as defined in subdivision (1) of subsection (a) of section 19a-77, in a municipality with a population greater than one hundred thousand persons provided such center is operating as of July 8, 1997. The commissioner may modify or renew a permit for an existing volume reduction plant

595 or transfer station, in accordance with the provisions of this chapter,
596 without regard to its location.] In making a decision to grant or deny a
597 permit to construct an ash residue disposal area, the commissioner
598 shall consider any provision which the applicant shall make for a
599 double liner, a leachate collection or detection system and the cost of
600 transportation and disposal of ash residue at the site under
601 consideration.

602 [(b) No solid waste facility shall be built or established and no solid
603 waste facility without a permit to construct shall be altered after July 1,
604 1971, until the plan, design and method of operation of such facility
605 have been filed with the department and approved by the
606 commissioner by the issuance of a permit to construct, provided,
607 nothing in this chapter or chapter 446e shall be construed to limit the
608 right of any local governing body to regulate, through zoning, land
609 usage for solid waste disposal.]

610 (b) No person or municipality shall establish, construct or operate a
611 solid waste facility without a permit issued by the commissioner under
612 this section. An application for such permit shall be submitted on a
613 form prescribed by the commissioner, include such information as the
614 commissioner may require, including, but not limited to, a closure plan
615 for such facility, and be accompanied by a fee prescribed in regulations
616 adopted in accordance with chapter 54. References to a permit to
617 construct or a permit to operate in a regulation adopted pursuant to
618 section 22a-209 shall be deemed to mean a permit as required by this
619 subsection. The [commissioner] applicant shall send a written
620 notification of any application for [a] such permit [to construct] to the
621 chief elected official of each municipality in which the proposed
622 facility is to be located, within five business days of the date on which
623 any such application is filed.

624 [(c) No solid waste facility for which a permit to construct is
625 required shall be operated on and after June 16, 1985, except for
626 performance testing approved by the commissioner, unless such
627 facility has been issued a permit to operate. The commissioner may

628 issue such permit upon determination that the facility (1) will be
629 operated in accordance with applicable laws or regulations, (2) has
630 been constructed in accordance with a permit issued pursuant to
631 subsection (b) of this section, and (3) has satisfactorily completed any
632 performance tests required by the commissioner. All operating
633 facilities holding a valid permit to construct on or before June 16, 1985,
634 shall be issued a permit to operate and shall be allowed to continue
635 operations prior to the issuance of such permit to operate. The
636 commissioner shall allow any person who is lawfully disposing of ash
637 residue within a solid waste disposal area on April 1, 1994, to continue
638 disposing of such residue within such area until March 1, 1997, or until
639 the issuance of a final permit to operate a new lined ash landfill in
640 Hartford.]

641 (c) Upon written notice from the commissioner and in accordance
642 with a schedule specified by the commissioner in such written notice,
643 any person or municipality who owns an unpermitted solid waste
644 disposal area shall (1) submit a closure plan for the commissioner's
645 review and written approval, provide public notice of such proposed
646 plan in a manner prescribed by regulations adopted pursuant to
647 section 22a-133k and close and maintain such area after closure in
648 accordance with the approved closure plan, or (2) remediate such
649 disposal area in accordance with a remediation plan approved by the
650 commissioner or verified by a licensed environmental professional
651 pursuant to section 22a-134a, 22a-134x or 22a-133y or pursuant to an
652 order of the commissioner. A fee of three thousand dollars shall
653 accompany any closure plan submitted pursuant to this subsection.
654 The commissioner may require the owner of a solid waste disposal
655 area to post sufficient performance bond or other security to ensure
656 compliance with the approved closure plan. The commissioner may
657 approve a modification to a closure plan for a solid waste disposal
658 area. A fee of five hundred dollars shall accompany the request for
659 such modification. The commissioner may reduce or waive the fees
660 required by this subsection in cases of financial hardship and may
661 modify such fees in regulations adopted in accordance with chapter 54.

662 The commissioner may require a person or municipality to provide
663 public notice of a proposed modification of a closure plan if the
664 modification involves any activity that would disrupt the solid waste
665 or change the use of the solid waste disposal area. Notwithstanding
666 the provisions of this subsection, the commissioner may order a person
667 or municipality who establishes or constructs a solid waste disposal
668 area without first obtaining a permit as required by subsection (b) of
669 this section to remove any solid waste disposed at such area, to
670 remediate any pollution caused by such waste, and to properly
671 dispose of such waste at a lawfully operated solid waste facility.

672 (d) (1) [Except as provided in subdivision (2) of this subsection, no
673 solid waste facility which] No person or municipality who holds a
674 permit [to construct shall be altered on and after June 16, 1985, until
675 the proposed plan, design and] issued under this section shall alter the
676 design or method of operation of the [altered facility have been filed
677 with the commissioner and approved by him by issuance of a modified
678 permit] permitted facility without first obtaining a modified permit.
679 For the purposes of this section and sections 22a-208, 22a-208b, 22a-
680 220a, 22a-225 and 22a-226, "alter" means [(A)] to change to any
681 substantive degree the [approved] design, capacity, volume process or
682 operation of a solid waste facility [holding a permit to construct,] and
683 includes, but is not limited to, changes in the approved capacity or
684 composition of solid waste disposed of, processed, reduced, stored or
685 recycled at the facility. [, or (B) to change to any substantive degree the
686 existing design, capacity, volume, process or operation of a solid waste
687 facility not holding a permit to construct and includes, but is not
688 limited to, changes in the volume or composition of solid waste
689 disposed, stored, processed, reduced or recycled at the facility.] The
690 commissioner may approve, in writing, a modification of a closure
691 plan for a closed permitted solid waste disposal area without
692 modifying the permit for such area. The commissioner may require a
693 person who, or a municipality that, requests such modification to
694 provide public notice of a proposed modification of a closure plan if
695 the modification involves any activity that would disrupt the solid

696 waste or change the use of the solid waste disposal area. A fee of five
697 hundred dollars shall accompany any request for such modification of
698 a closure plan. The commissioner may reduce or waive such fee in
699 cases of financial hardship and may modify such fee in accordance
700 with regulations adopted in accordance with chapter 54.

701 (2) Changes in design, processes or operations, including the
702 addition of thermal oxidizers or other air pollution control equipment,
703 made to mitigate, correct or abate odors from a solid waste facility that
704 is owned or operated by the Connecticut Resources Recovery
705 Authority and that contracts with more than fifty municipalities, shall
706 not be considered an alteration requiring a modified permit or minor
707 permit amendment under this chapter. In addition, notwithstanding
708 any provision of the general statutes or regulation adopted pursuant to
709 said statutes, any such change shall not be considered a modification
710 or new stationary source requiring a permit to construct or operate
711 under chapter 446c or under any regulation adopted pursuant to
712 chapter 446c, unless such change is a major modification or a major
713 stationary source requiring a permit under the federal Clean Air Act
714 Amendments of 1990. Any person making any such change to an odor
715 control system at such a facility shall, not more than thirty days after
716 making such change, submit a written report to the commissioner fully
717 describing the changes made and the reason for such changes for the
718 commissioner's review and comment. Nothing in this subdivision shall
719 affect the commissioner's authority to take any other action to enforce
720 the requirements of this title.

721 Sec. 515. Section 22a-207 of the general statutes is amended by
722 adding subdivisions (25) and (26) as follows (*Effective October 1, 2005*):

723 (NEW) (25) "Person" means any individual, partnership, association,
724 firm, limited liability company, corporation or other entity, except a
725 municipality, and includes the federal government, the state or
726 instrumentality of the state, and any officer or governing or managing
727 body of any partnership, association, firm, or corporation, or any
728 member or manager of a limited liability company.

729 (NEW) (26) "Closure plan" means a comprehensive written plan,
730 including maps, prepared by a professional engineer licensed by the
731 state that details the closure of a solid waste disposal area and that
732 addresses final cover design, stormwater controls, landfill gas controls,
733 water quality monitoring, leachate controls, post closure maintenance
734 and monitoring, financial assurance for closure and post closure
735 activities, post closure use and any other information that the
736 commissioner determines is necessary to protect human health and the
737 environment from the effects of the solid waste disposal areas.

738 Sec. 516. (NEW) (*Effective October 1, 2006*) (a) The Commissioner of
739 Environmental Protection may issue, modify or revoke orders to
740 correct or abate violations of chapter 446m of the general statutes,
741 including, but not limited to, any regulation adopted pursuant to
742 chapter 446m of the general statutes. Any such order may include
743 remedial measures necessary to correct or abate such violations. Such
744 orders may be issued to any person who violates any provision of
745 chapter 446d of the general statutes or any regulation adopted
746 pursuant to chapter 446m of the general statutes.

747 (b) Each order issued under chapter 446m of the general statutes
748 shall be served by certified mail, return receipt requested, or by a state
749 marshal or indifferent person. If a state marshal or indifferent person
750 serves the order, a true copy of the order shall be served, and the
751 original, with a return of such service endorsed thereon, shall be filed
752 with the commissioner. The order shall be deemed to be issued upon
753 service or upon deposit in the mail. Any order issued pursuant to
754 chapter 446d of the general statutes shall state the basis on which it is
755 issued.

756 (c) Unless a person aggrieved by an order files a written request for
757 a hearing before the commissioner not later than thirty days after the
758 date of issuance, such order shall become final. If requested, the
759 commissioner shall hold a hearing as soon thereafter as practicable. A
760 request for a hearing shall be a condition precedent to any appeal. The
761 commissioner may, after the hearing or at any time after the issuance

762 of the order, modify such order by agreement or extend the time
763 schedule therefor if the commissioner deems such modification or
764 extension advisable or necessary, and any such modification or
765 extension shall be deemed to be a revision of an existing order and
766 shall not constitute a new order. There shall be no hearing subsequent
767 to or any appeal from any such modification or extension.

768 (d) After hearing, the commissioner shall consider all supporting
769 and rebutting evidence and affirm, modify or revoke such order in the
770 commissioner's discretion and shall so notify the recipient of the order
771 by certified mail, return receipt requested.

772 (e) The final order of the commissioner shall be subject to appeal as
773 set forth in sections 4-183 and 4-184 of the general statutes, except that
774 any such appeal shall be taken to the superior court for the judicial
775 district of New Britain.

776 Sec. 517. (NEW) (*Effective October 1, 2006*) (a) Whenever, in the
777 judgment of the Commissioner of Environmental Protection, any
778 person has engaged in or is about to engage in any acts, practices or
779 omission which constitute, or will constitute, a violation of any
780 provision of chapter 446m of the general statutes, or any regulation
781 adopted or order issued pursuant to chapter 446m of the general
782 statutes, at the request of the Commissioner of Environmental
783 Protection, the Attorney General may bring an action in the superior
784 court for the judicial district of New Britain for an order enjoining such
785 acts or practices, to order remedial measures, or for an order directing
786 compliance and, upon a showing by the commissioner that such
787 person has engaged in or is about to engage in any such acts, practices
788 or omissions, a permanent or temporary injunction, restraining order
789 or other order may be granted.

790 (b) Any person who violates any provision of chapter 446m of the
791 general statutes, including, but not limited to, any regulation adopted
792 or order issued pursuant to chapter 446m of the general statutes, shall
793 be assessed a civil penalty not to exceed twenty-five thousand dollars

794 per day, to be fixed by the court, for each offense. Each violation shall
795 be a separate and distinct offense and, in the case of a continuing
796 violation, each day's continuance thereof shall be deemed to be a
797 separate and distinct offense. The Attorney General, upon request of
798 the commissioner, shall institute a civil action in the superior court for
799 the judicial district of New Britain to recover such penalty.

800 (c) If two or more persons are responsible for a violation of any
801 provision of chapter 446m of the general statutes, including, but not
802 limited to, any regulation adopted or order issued pursuant to said
803 chapter 446m, such persons shall be jointly and severally liable under
804 this section.

805 (d) Any action brought by the Attorney General pursuant to this
806 section shall have precedence in the order of trial as provided in
807 section 52-191 of the general statutes.

808 Sec. 518. (NEW) (*Effective October 1, 2006*) (a) Any person who, with
809 criminal negligence, violates any provision of chapter 446m of the
810 general statutes, including, but not limited to, any regulation adopted
811 or order issued pursuant to chapter 446m of the general statutes, or
812 who makes any false statement, representation, certification in any
813 application, notification, request for exemption, record, plan, report or
814 other document filed or required to be maintained under chapter 446m
815 of the general statutes, shall be fined not more than twenty-five
816 thousand dollars per day for each day of violation or be imprisoned
817 not more than one year, or both. A subsequent conviction for any such
818 violation shall carry a fine of not more than fifty thousand dollars per
819 day for each day of violation or imprisonment for not more than two
820 years, or both.

821 (b) Any person who knowingly violates any provision of chapter
822 446m of the general statutes, including, but not limited to, any
823 regulation adopted or order issued pursuant to chapter 446m of the
824 general statutes, or who makes any false statement, representation, or
825 certification in any application, notification, request for exemption,

826 record, plan, report or other document filed or required to be
827 maintained under chapter 446m of the general statutes, shall be fined
828 not more than fifty thousand dollars per day for each day of violation
829 or be imprisoned not more than three years, or both. A subsequent
830 conviction for any such violation shall carry a fine of not more than
831 fifty thousand dollars per day for each day of violation or
832 imprisonment for not more than ten years, or both.

833 Sec. 519. Subsection (a) of section 22a-617 of the general statutes is
834 repealed and the following is substituted in lieu thereof (*Effective July*
835 *1, 2005*):

836 (a) Except as provided in section 22a-618, except for products that
837 contain a mercury-containing lamp used for backlighting that cannot
838 feasibly be removed by the purchaser and except for [specialized
839 lighting used in the entertainment industry such as metal halide lights]
840 high intensity discharge lamps containing more than one hundred
841 milligrams of mercury including metal halide lamps, mercury vapor
842 lamps, mercury capillary lamps, mercury-xenon short-arc lamps and
843 mercury short-arc lamps, no person shall offer for sale or distribute for
844 promotional purposes any mercury-added product if: (1) After July 1,
845 2004, the mercury content of the product exceeds one gram in the case
846 of fabricated mercury-added products or two hundred fifty parts per
847 million in the case of formulated mercury-added products; and (2) on
848 and after July 1, 2006, the mercury content of the product exceeds one
849 hundred milligrams in the case of fabricated mercury-added products
850 or fifty parts per million in the case of formulated mercury-added
851 products."